

Model State Emergency Health Powers Act (MSEHPA)

After terrorist attacks on New York City and Washington, D.C. on September 11, 2001, and subsequent threats of biological warfare against U.S. citizens, federal health officials immediately began preparing for mass anthrax and smallpox vaccination campaigns. National vaccination programs targeting civilians, including children, were proposed in model state legislation created by Lawrence Gostin, of the Georgetown Center for Law and the Public's Health with funding from the CDC. The MSEHP laws proposed to re-write state public health laws to give government health officials sweeping new power over citizens when public health "emergencies" were declared by the Secretary of DHHS or state governors.

The National Vaccine Information Center, along with the ACLU and other organizations concerned about lack of informed consent protections and other threats to civil liberties, opposed the legislation. NVIC took the position that, while it is critical for the U.S. to have a sound, workable plan to respond to an act of bioterrorism, as well as enough safe and effective vaccines stockpiled for every American who wants to use them, there are legitimate concerns about a plan which forces citizens to use vaccines without voluntary, informed consent.

The MSEHPA, which was passed by many states in 2002, included provisions that would allow state health officials to use the state militia to:

- take control of all roads leading into and out of cities and states;
- seize homes, cars, telephones, computers, food, fuel, clothing, firearms and alcoholic beverages for their own use (and not be held liable if these actions result in the destruction of personal property);
- arrest, imprison and forcibly examine, vaccinate and medicate citizens without consent (and not be held liable if these actions result in your death or injury).

NVIC Special Report: Smallpox and Forced Vaccination: What Every American Needs to Know. All mass vaccination campaigns result in casualties because every vaccine, like every drug, carries an inherent risk of injury or death. Some individuals are genetically or biologically more vulnerable to vaccine reactions than others,¹⁰ but there are few reliable biomarkers to predict who they are which is why legally protecting the informed consent rights of all citizens becomes a moral imperative. The human right to be fully informed about all known and unknown risks, as well as benefits, of any medical intervention and make a voluntary decision about whether to take the risk, has been the centerpiece of bioethics ever since the Nuremberg Code was adopted after World War II and the doctrine of informed consent was introduced into U.S. case law in 1957. Barbara Loe Fisher. The Vaccine Reaction Newsletter. Winter 2002.

Legislative Alternatives to the MSEHPA, LSU Law Center: Samples of model laws - April 21, 2003.

ACLU on the Model State Emergency Health Powers Act: Opposition to the Model Act from organizations on both the right and left of the political spectrum include the conservative Free Congress Foundation, and the American Legislative Exchange Council, the conservative association of state legislators, have both opposed the draft of the Model Act. The Human Rights Campaign and the Health Privacy Project have also raised concerns about the legislation. January 1, 2002.

The Model State Health Emergency Powers Act: An Assault on Civil Liberties in the Name of Homeland Security: Under this legislative proposal, once a public health emergency is declared, governors and state public health authorities would be granted greatly expanded police powers.. Sue Blevins. June 10, 2002.